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7 UNITED STATES BANKRUPTCY COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

9 In re  
10 GEORGE E. ANDERSON, No. 05-10433  
11 Debtor(s).  
12

13 Memorandum re Lien Avoidance

14 After significant struggling, the court finds itself unable to resolve what should be a simple  
15 matter. To assist the court, counsel for the debtor and counsel for creditor Stohlman & Rogers shall meet  
16 and confer and file a joint statement of disputed and undisputed facts. Ten days after the joint statement  
17 of facts is filed, each side shall file a brief setting forth its calculations showing why the judgment lien  
18 should or should not be avoided.<sup>1</sup>

19 The parties shall file, either as part of their calculations brief or as a separate memorandum of  
20 law, a legal brief setting forth the case an statutory law upon which they rely. Of particular interest to  
21 the court is why the court should use the \$407,000.00 sale price as the starting point for calculations,  
22 since the sale was entered into over a year after the case was filed and was also to the creditor itself, so  
23 it may not be a reliable measure of value. It appears to the court that the value and liens are to be

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25 <sup>1</sup>The parties shall assume that the homestead is allowed for \$150,000.00. In the event the motion  
26 to avoid the lien is granted, the court will fashion an order preserving the creditor's rights in the event  
that the allowance of the homestead is reversed on appeal.

1 determined as of the date of filing of the petition. See § 522(a)(2) of the Bankruptcy Code and *In re*  
2 *Salanoa*, 263 B.R. 120 (Bankr.S.D.Cal. 2001).

3 This matter will be deemed submitted once the briefs are filed, unless the court determines that  
4 an evidentiary hearing is necessary to resolve a disputed issue of fact.

5 Dated: May 17, 2006

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Alan Jaroslovsky  
U.S. Bankruptcy Judge